



# COOK SHIRE COUNCIL

CM 16-17-18 July 2012  
 Our Ref: MJE 2.965.257 (610); D12/9296  
 Your Ref: Nil  
 Date 19 July 2012



The Research Director  
 State Development, Infrastructure and Industry Committee  
 Parliament House  
 George Street  
 BRISBANE QLD 4000

Dear Sir,

**RE: CALL FOR SUBMISSIONS – THE FUTURE AND CONTINUED  
 RELEVANCE OF GOVERNMENT LAND TENURE ACROSS  
 QUEENSLAND.**

I refer to the press release in relation to the above.

Please note that Council considered the matter at its July 2012 meeting, when it resolved that the following comprises Council's submission:

**A ) Pastoral Holdings; Leasehold Land**

Remote Pastoral Leases are generally operated as rate and lease paying businesses. These businesses are often severely impacted by seasonal and market forces. Current Pastoral Leasehold Tenure is restrictive in terms of business diversification and opportunities for Leaseholders to implement the types of business strategies normally available to other businesses, including other Primary Industry entities.

**Required: a simpler process to enable Pastoral Diversification**

Diversification should be enabled through Leasehold Tenure simplification:

Non- impacting diversification options should be allowed through a simple permit/application process:

- Opportunistic cropping and/or orcharding of existing cleared land for fodder/hay production
- Farm Stay (and other minimal impact short-stay camping type options)
- Low impact eco, cultural, environmental tourism options including hunting

- Ability for landholders to graze a range of stock on agricultural leases
- Secondary industry options / value adding
- Low impact aquaculture based on native/endemic species
- Horticulture based on an agreed parcel of land, and assessed under normal EIA

The enabling of a diversification permit system would allow Leaseholders to better manage their businesses and has a positive economic flow-on for regions, diversifying job opportunities and complementing the suite of tourism options in the region.

Western Australia developed such a process that has been in place since 2000, and may provide a suitable model for adoption.

**Required:** a simpler process to enable Pastoral Leasehold to be converted to improved Tenure – Freehold and Grazing Homestead Perpetual Lease (GHPL)

Local Government is supportive of **Freeholding and/or improving Lease Tenures for Pastoral Leasehold** land.

## **B) Townships**

In many rural areas of Australia there is housing and community land shortages as rural and regional towns have become landlocked. The Cook Shire Council considers that the holding of a land pool around townships will allow for future expansion of rural towns. This was the original purpose of Town Reserves.

Natural Resources and Mines currently have no Policy relating to the development of Town Reserves. NRM Officers state that Town Reserves can be “used for any purpose normally associated with a town” however it is difficult to excise an area from a Town Reserve it is almost impossible with the processes and restrictions in place under NR&M.

The cost of development of town reserves that are identified under Native Title is currently prohibitively expensive for private sector and local government.

**Required:** Processes for the use of Town Reserves should be streamlined – minimising “red-tape”.

Town Reserves should be available for any purpose normally associated with a town and its development. (Inclusive of Residential, Recreational, Community, Commercial, Industrial, Roads, Water Infrastructure, Waste Disposal, Telecommunications, Education).

**Required:** No Town Reserve land should be removed from future use.

### **C) Community Purpose Reserves**

The definition of Community Purpose Reserve in Schedule 1 in the *Land Act 1994* had been amended from the *Land Act 1991*. The current definition results in Local Councils being required to purchase – in fee simple – land on which Operational Works are to be conducted (schools, fire brigades, ambulance, works, depots, land fill sites, water supply, sewerage, telecommunications etc).

A return to the definition in the 1991 Act would enable Operational Works to be included within the definition of Community Purpose.

**Required:** Cook Shire Council support reversion to the *Land Act 1991* definition.

**Further:** Trustee Leases should be able to be granted by the Trustee of the Reserve without the need for a Land Management Plan specific to the reserve, or triggering the requirement for Ministerial Approval to the Trustee Lease.

Local Government is better informed than a Government Department to determine whether a defined use is appropriate to a particular parcel of land – whether freehold, leasehold or Community Purpose Reserve.

### **D) Tenure Conversion Process in Cape York**

#### **Cape York Specific Community Purpose Reserves**

Currently NR&M policy is to divest itself of all land holdings in areas being dealt with under the Tenure Conversion Process in Cape York.

This includes all land in areas either:

- Aboriginal Freehold Land (under *Aboriginal Land Act 1991*)
- National Park (Cape York Peninsula Aboriginal Land) under the *Cape York Peninsula Heritage Act 2007*
- And, a small number of Community purpose Reserves in either Aboriginal or Local Government Trusteeship.

This denies legal access for the travelling public to all but the National Parks. (Those travelling with domestic pets are denied access to all areas).

There is no alternative to “The National Park Experience”.

**Required:** Community Purposes Reserves must be under the Trusteeship of Local Government.

This should include reserves on the coastline and include beach access.



- To provide an alternative to the National Park stay for travelling public, particularly “grey nomads” travelling with pets.
- Beach access is an imperative for the long term amenity of ALL residents, who are increasingly being restricted from beaches, and the travelling public who travel to this region for the “remote” experience.

**Required:** That a network of Community Purpose Reserves be identified and set aside as a priority.

### Roads

The Cook Shire Council manages a network of gravel roads across a remote and massive area that is seasonally impacted by adverse weather events.

As a consequence of the Tenure Conversion Process, and through the operations of NR&M, decisions regarding road openings/closures are made by NR&M and often on advice of Queensland Parks and Wildlife Service (QPWS) or land trust interests, often in opposition to the Local Government position which is the Road Authority for the area.

**Required:** The Road Authority (Local Government) must be the determining authority for road openings and closures.

### Gravel and Water

Gravel and Water are vital to the continued maintenance of the remote road network. Regular gravel access across this network is essential to limit transport distances and therefore keep costs at an affordable level. Without affordable gravel – the road system cannot be maintained.

The conversion of Land Tenure to either Aboriginal Freehold, or Aboriginal National Park (CYPAL) is impacting the Road Authority (Local Government) access to gravel and water for routine maintenance. Local Government is being denied access to gravel reserves without entering into commercial agreements.

This issue has been dealt with in a detailed submission to Honourable Andrew Powell MP, Minister for Environment and Heritage Protection in Brisbane on 29<sup>th</sup> May 2012. (attached).

**Required:** Local Government must be guaranteed gravel and water security to ensure long term affordable maintenance of the regional road networks.

A copy of the submission to the Honourable Andrew Powell MP, Minister for Environment and Heritage Protection, in Brisbane on 29 May 2012, referred to above, is attached for information purposes, and in support of the above submission.

Should you have any further enquiries with regard to this matter, please contact Michael Edmonds, Council's Land Tenure Officer on 0427 695 588.

Please quote Council's file reference number in any correspondence and/or enquiry.

Regards



Stephen Wilton  
Chief Executive Officer

Att.

Submission to the Honourable Andrew Powell MP, Minister for Environment and Heritage Protection

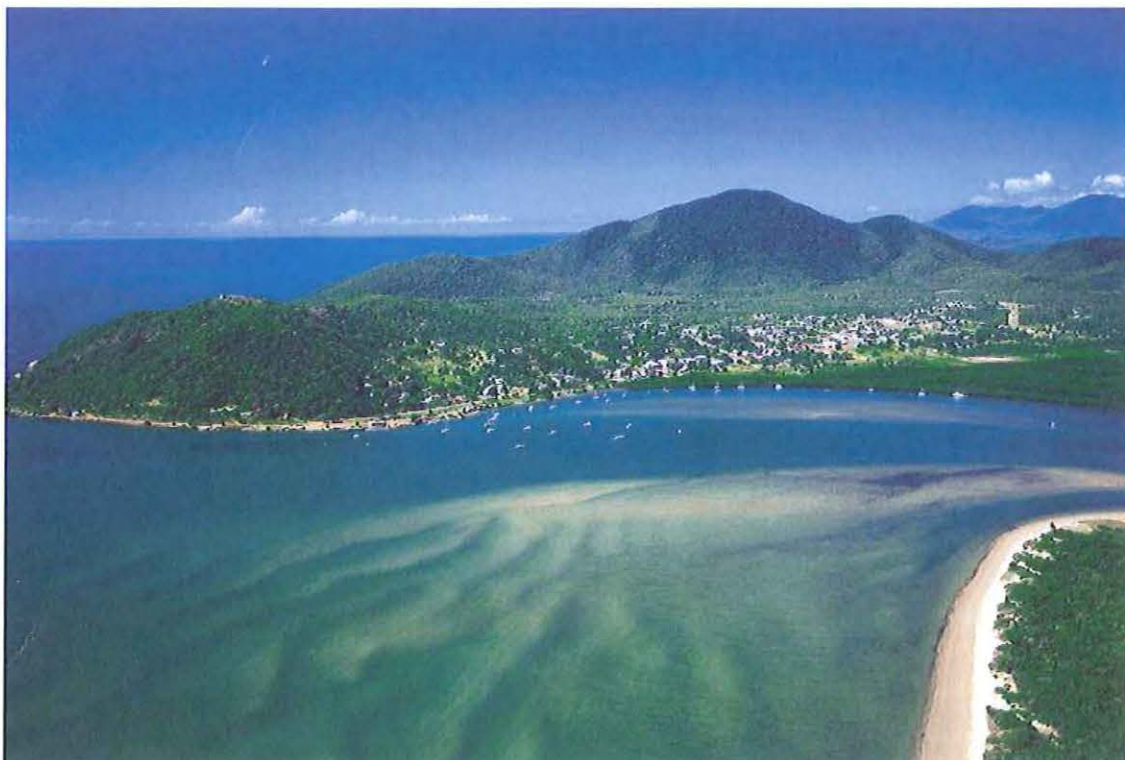
cc. Mr D Kempton  
Member for Cook  
Assistant Minister for Aboriginal and Torres Strait Islander Affairs  
PO Box 2251  
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**COOK SHIRE COUNCIL SUBMISSION TO THE QUEENSLAND  
GOVERNMENT REPRESENTED BY THE HONOURABLE ANDREW  
POWELL MP, MINISTER FOR ENVIRONMENT AND HERITAGE  
PROTECTION, IN BRISBANE ON 29 MAY 2012**



**ISSUES:**

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## EXECUTIVE SUMMARY

ISSUE	DETAIL	DESIRED OUTCOME
1	THE TRANSFER OF FORESTRY PRODUCTS AND QUARRY MATERIAL BY THE STATE GOVERNMENT WITH THE GRANT OF ABORIGINAL LAND ACT FREEHOLD LAND.	<p>That a road reserve of sufficient width to include the quarry material, water, and access thereto, is opened prior to the transfer of any land into either Aboriginal freehold tenure or National Park.</p> <p>OR</p> <p>That the State Government reserve all forest products and quarry material to the Crown pursuant to the provisions of section 55 (1) Reservations of forest products and quarry materials etc, of the <i>Aboriginal Land Act 1991</i>, in connection with any future transfers as Aboriginal freehold land.</p> <p><b>AND</b></p> <p>Amendments be made to relevant legislation to permit Council access to the quarry materials and water on Aboriginal freehold land on the same terms and conditions as the <i>Local Government Act 2009</i> currently provides for accessing quarry products on State leasehold land.</p> <p><b>PAST DEALINGS</b></p> <p>Acquisition of the materials by the State and amendment to legislation as above.</p> <p><b>NATIONAL PARKS</b></p> <p>Provision be made for local government to access gravel and water within National Parks.</p>
2	THE OPENING AND CLOSURE OF ROADS.	<p>The inclusion of Council in the investigation and negotiation process from the outset.</p> <p>Council's position as the Road Authority and local government for the area being formally</p>

		<p>recognised and given the weight it deserves; and its road requirements not be overturned by unsupported positions taken by either the Traditional Owners or Queensland Parks and Wildlife Service.</p> <p>The opening of the identified new road access to Portland Roads.</p> <p>The acknowledgement of Council's roads policy as a genuine matter for consideration in future tenure resolution dealings.</p>
3	ABORIGINAL CULTURAL HERITAGE ISSUES.	That tenure changes no longer be proposed if Aboriginal cultural heritage is discovered on a particular parcel or at a particular location.
4	PORTLAND ROADS ESPLANADES.	<p>Esplanades stay open and/or are established prior to any transfer to Aboriginal freehold or National Park tenure.</p> <p>The creation of esplanades around the circumference of all islands.</p> <p>Chili Beach esplanade agreement is honoured by the State.</p> <p>Regarding any Aboriginal freehold or National Park already created by the State, the acquisition of the areas identified by Council by the State, and their subsequent dedication as road reserve, at no cost to Council.</p>
5	MAHMIE PEAK.	The State honours the negotiated outcome.
6	THE TOWNSHIP OF COEN WATER SUPPLY.	<p>The provision of an alternate water supply for Coen.</p> <p>Given that the State chose to ignore the information provided to it in relation to this issue, and preceded with tenure resolution outcomes, Council considers it is now up to the</p>

		State to resolve the issue.
7	COOK SHIRE COUNCIL REPRESENTATION AT NEGOTIATION MEETINGS REGARDING TENURE OUTCOMES IN CAPE YORK PENINSULA.	<p>Council to be part of the investigation and negotiation process from the beginning.</p> <p>Council's requirements for the maintenance and/or expansion of the road network take precedence over the aspirations of the Traditional Owners or Queensland Parks and Wildlife Service.</p>
8	MUSGRAVE PORMPURA AW ROAD	<p>That a road reserve of sufficient width to include the quarry material, water, and access thereto, is opened prior to the transfer of any land into either Aboriginal freehold tenure or National Park.</p> <p>OR</p> <p>That the State Government reserve all forest products and quarry material to the Crown pursuant to the provisions of section 55 (1) Reservations of forest products and quarry materials etc, of the <i>Aboriginal Land Act 1991</i>, in connection with any future transfers as Aboriginal freehold land.</p> <p>AND</p> <p>Amendments be made to relevant legislation to permit Council access to the quarry materials and water on Aboriginal freehold land on the same terms and conditions as the <i>Local Government Act 2009</i> currently provides for accessing quarry products on State leasehold land.</p> <p>NATIONAL PARKS</p> <p>Provision be made for local government to access gravel and water within National Parks.</p>



## **COOK SHIRE DETAILS**

### **Location**

Main Administration Office: 10 Furneaux Street, Cooktown, Far North Queensland  
Works Depot: 33 Charlotte Street, Cooktown, Far North Queensland

### **Geography**

Cook Shire is the largest land area shire in Queensland encompassing 106,000km<sup>2</sup> and occupying some 80% of the Cape York Peninsula region. The southern boundary comprised in part the Bloomfield River, while to the north the Shire extends to a point found slightly beyond the Jardine River.

An extremely diverse environment, Cook Shire encompasses freehold lands and various types of leasehold lands, World Heritage areas, including Wet Tropics and Great Barrier Reef Marine Park, National Parks, protected areas and other types of conservation zones. A truly dynamic mix of township residents, pastoralists, miners and small rural land holders.

The significant industries include cattle, tourism, mining, fishing and horticulture. One of Australia's most historically significant townships, Cooktown is the location where Captain James Cook spent almost seven weeks repairing his vessel, the HM Bark Endeavour.

Some of the most extraordinary discoveries and interactions with local Aboriginal people occurred here in 1770.

Cooktown provides something for everyone including exquisite botanic gardens, heritage listed buildings and museums, beaches, waterfalls, magnificent bushwalking trails and various fishing opportunities - so much more than you can fit into an overnight trip. A truly unique travel destination, read on to discover more about Cooktown and Cape York Peninsula.

### **Overview...**

Cooktown is a small historic coastal town surrounded by stunning countryside, approx. 330km from Cairns (about 3 ½ hours drive on the inland road) and 260km from Mareeba via the sealed Mulligan Highway. It is also Australia's closest town to the Great Barrier Reef.

With its laid-back atmosphere and friendly people, this is the perfect base to explore the rugged beauty of the lower Cape, noted for its pristine environment and Aboriginal culture.

One of the most picturesque towns in Queensland, Cooktown sits at the foot of Mt Cook

beside the magnificent Endeavour River. With mountains and rivers in abundance Cooktown provides something for everyone including a unique history that began in 1770 with Cook's arrival, exquisite Botanical Gardens, beaches, waterfalls and magnificent bushwalking trails.

For the adventurous there are fishing trips up rivers abundant with barramundi or visit some original Aboriginal rock art. Or relax, sit back and watch the sunset over the Endeavour River from Grassy Hill.

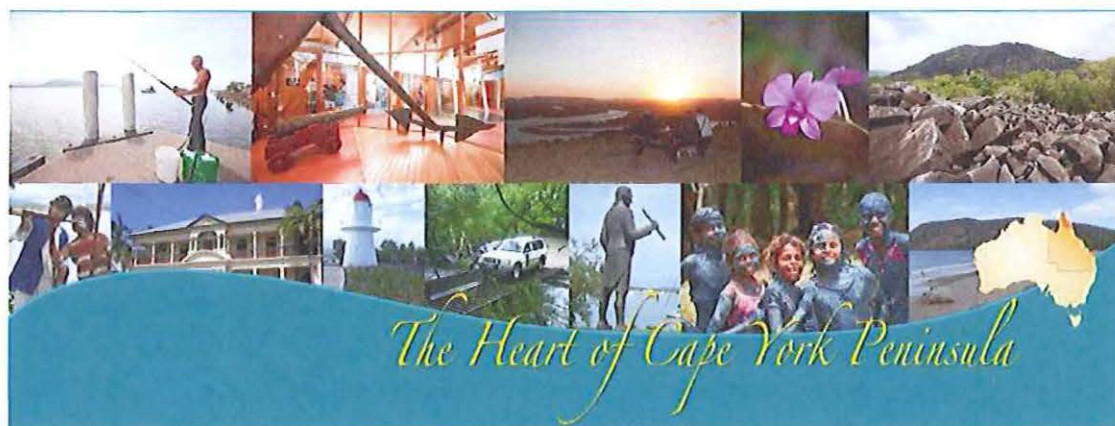
#### Shire and Town Population

Approx. 5,000 people live in the entire Cook Shire, which spans across 80% of Cape York Peninsula. Around 2,000 people reside in Cooktown alone.

#### Weather...

Cook Shire enjoys a mild tropical climate all year round with the annual wet season generally running from January to March. Being summer months, this is also a hot and humid time of the year. April to December brings a drier period with cooler weather and temperatures averaging around 27 degrees Celsius. In summer Cooktown is usually about 5 degrees cooler than Cairns.

A map showing Cook Shire as an overlay on south-east Queensland is of interest and is attached at **APPENDIX 1**.



## **GENERAL**

*The problems referred to in this document are generally restricted to the area of the Shire of the Council of Cook, as that is the area where the State Cape York Tenure Resolution Task Force land dealings are occurring and have occurred.*

The Cape York Tenure Resolution Task Force was formerly located within the (then) Department of Environment and Resource Management, and is now, as you are aware, located within your Department of Environment and Heritage protection.



## **ISSUE 1.**

### **ACCESS TO GRAVEL AND WATER FOR ROAD CONSTRUCTION; AND/OR ROAD MAINTENANCE**

#### **1. EXISTING SITUATION (WHERE THERE IS NO ABORIGINAL LAND ACT FREEHOLD GRANT)**

- (a) The gravel resource and water are generally located within the road reserve and accessed without any need for an approval process – the day to day operations of Council in maintaining its vast road network.

Council's extraction procedures are in accordance with the various legislative requirements.

- (b) Alternatively, the gravel resource and/or water are located within State leasehold land (e.g. Pastoral Holdings), and are accessed pursuant to the provisions of the *Local Government Act 2009*.

- (c) Gravel is, in the main, accessed from existing historic pits.

#### **2. PREVIOUS STATE GOVERNMENT POLICY**

The previous State Government adopted a policy of transferring forest products and quarry material with the grant of Aboriginal Land Act freehold land - Council assumes this was to provide economic opportunity to Traditional Owners.

Those materials do not transfer with any other tenure – they are reserved to the Crown.

The 'economic opportunity' concept, while laudable, is not achievable when it relies on local government to provide the income stream – Cook Shire does not have a budget that would permit that outcome.

#### **3. CURRENT POSITION RESULTING FROM THE ABOVE PREVIOUS STATE GOVERNMENT POSITION**

An example of the (former) Government Policy decision to transfer forest products and quarry material with *Aboriginal Land Act 1993* freehold tenure is the pending tenure dealing with Batavia proposed by the Cape York Tenure Resolution Task Force – see attached letter dated 1 May 2012, from your Department.



The current proposal is to:

- transfer forest products and quarry material with the grant of *Aboriginal Land Act 1993* freehold tenure;
- create parcels over the various areas of the gravel resources used and required by Council which were registered pits prior to 1 January 2009 when Environmental Protection Regulation 2008 commenced - due to the changes in the way that environmental matters were regulated in Queensland, those "in use" pits were no longer required to be registered;
- obtain Ministerial approval for the Aboriginal Corporation holding the tenure to enter into lease arrangements with Council;
- Council lease the various areas from the Aboriginal Corporation;
- Council pay a lease fee to the Aboriginal Corporation;
- Council obtain all necessary approvals to extract the gravel, comprising:
  1. Approvals required for extracting gravel - once land is transferred to Aboriginal Freehold - up to and over quantities listed in the scheme.
    - Exemptions no longer apply.
    - If pits are already established they will have existing use rights, and no further approvals under the scheme are necessary.
    - If pits are not established, or are being significantly expanded it will constitute Extractive Industry under the scheme and will require an Impact Assessable application regardless of zoning.
    - No limit in the scheme on the quantity of material to be extracted that may trigger the need for additional assessment.
    - Other approvals:
      - An Environmental Risk Assessment under the Environmental Protection Act is required for extracting 5000t or more per year.
      - If vegetation clearing is involved a permit may be required from Natural Resources and Mines.
      - If the pits affect a waterway or drainage channel then a license under the Water Act may be required.
      - Wild Rivers legislation may be relevant.

It may also be necessary to consider whether entering a lease constitutes 'subdivision by lease' under the *Sustainable Planning Act 2009*.

2. Process for approvals:

- If no existing rights exist;
  - i. Council will need to prepare an application under the planning scheme.
  - ii. State agency matters (Environmental Risk Assessments, vegetation clearing, etc) would be handled through a referral.
  - iii. If no approval is required under the scheme but there are matters of State interest, applications may need to be lodged directly with the State Agencies.
- For any of the applications, the following are required;
  - i. Plans of the extraction areas.
  - ii. Completed forms (Integrated Development Assessment System or otherwise).
  - iii. Supporting information (town planning report addressing the scheme requirements, environmental report justifying the vegetation clearing etc).
  - iv. Application fees.

3. Timeframes:

- An impact assessable application under the planning scheme would generally take 4-6 months for approval.
- If the application requires referral to State Agencies (likely referral agencies are Natural Resources and Mines, Department of Transport and Main Roads) the process will drag out.
- Application direct to State Agencies (if an application under the planning scheme is not required) can be considerably quicker, however Natural Resources and Mines standard advice with respect to vegetation clearing is that applications can take up to 6 months.

- Assuming all approvals are forthcoming, *and there is no guarantee of this*, Council win the resource; and
- Council pay a tonnage rate for the materials.

The above process is in lieu of the process under the heading 1. EXISTING SITUATION (WHERE THERE IS NO ABORIGINAL LAND ACT FREEHOLD GRANT) above.

#### **4. IF NO CHANGE IN GOVERNMENT POLICY RE THE TRANSFER OF FOREST PRODUCTS AND QUARRY MATERIAL WITH THE GRANT OF ABORIGINAL FREEHOLD LAND.**

Council does not have a budget that would allow it to follow the procedures and meet the resultant costs set out Issue 1, heading 3 above.

The result is that Council will not have access to gravel to maintain the road network abutting grants of Aboriginal freehold and National Park – more on the latter later.

The road network will decline to a standard where it is unsafe to use – quite probably after only one wet season.

To meet its 'duty of care' obligations to the travelling public, Council will have no alternative but to close the various roads to traffic, under the provisions of the *Local Government Act 2009*.

It would not take long for the road network on Cape York Peninsula to be seriously impacted and fragmented, a disastrous situation.

#### **DESIRED OUTCOME**

##### **OPTION 1**

##### **GOVERNMENT FUNDING**

The foregoing could be overcome if the State Government was to fund all Council expenses incurred in accessing gravel on Aboriginal freehold land – as set out in Issue 1, heading 3 above.

**OR**



## **OPTION 2**

### **DECLARATION AS MAIN ROADS**

Another solution open to the State Government would be to declare all roads (both dedicated and undedicated) within the Shire of the Council of Cook to be main roads under the relevant legislation – this would not solve the problem, but would transfer it from Council to the Main Roads Department.

OR

## **OPTION 3**

### **COUNCILS PREFERRED OUTCOME FOR ALL FUTURE DEALINGS**

That a road reserve of sufficient width to include the quarry material, water, and access thereto, is opened prior to the transfer of any land into either Aboriginal freehold tenure or National Park.

Council's relevant policy position on roads is:

#### **Rural Road Corridor**

“That as a matter of policy, Council requires a road corridor 1 km wide wherever detailed design has not taken place and the State intends to undertake tenure resolution and include lands in either the Protected Area Estate or Aboriginal freehold tenure.

Moreover, Council will require a wider corridor as necessary for any future re-alignment or to encompass other resources such as water and gravel which cannot be located within a 1 km wide road corridor.”

OR

## **OPTION 4**

### **ALTERNATIVE OUTCOME FOR ALL FUTURE DEALINGS**

That the State Government reserve all forest products and quarry material to the Crown pursuant to the provisions of section 55 (1) Reservations of forest products and quarry materials etc, of the *Aboriginal Land Act 1991*, in connection with any future transfers as Aboriginal freehold land.

**AND**

Amendments be made to relevant legislation to permit Council access to the quarry materials and water on Aboriginal freehold land on the same terms and conditions as the



*Local Government Act 2009* currently provides for accessing quarry products on State leasehold land.

## **OUTCOME FOR PAST DEALINGS**

In relation to already transferred lands, a regulation is declared pursuant to the provisions of section 55 (2) of the *Aboriginal Land Act 1991*, that where a deed of grant of transferred land does not contain a reservation of particular forest products and quarry material above, or below the land, that the forest products and quarry material are of vital State interest (section 55 (2) (a); and the rights in the forest products and quarry material are acquired by the State (section 55 (2) (b)).

It should be noted that the foregoing gives a right to the payment of compensation (section 55 (3)) – this issue would not have arisen if the State had reserved the rights in relation to those products as urged by Council from day one.

## **AND**

Amendments be made to relevant legislation to permit Council access to the quarry materials and water on Aboriginal freehold land on the same terms and conditions as the *Local Government Act 2009* currently provides for accessing quarry products on State leasehold land.

## **5. NATIONAL PARKS**

Provision must be made for Council to access gravel within National Parks for construction and/or maintenance of the local road network or the result will be the same as outlined above – the cessation of maintenance and the rapid deterioration of the road surface to a state where Council has no option but to close the road to traffic.

## **ISSUE 2.**

### **THE DEGREE OF WEIGHT GIVEN COUNCIL'S POSITION REGARDING THE ROAD NETWORK, AS THE ROAD AUTHORITY FOR ITS LOCAL GOVERNMENT AREA**

In dealings proposed by the Cape York Tenure Resolution Task Force, Council responds to the *Land Act 1994* section 16 process, with its position/requirements regarding many issues, including road openings and community purpose land proposals.

Council's understanding is that its position on road openings and community purpose land proposals are considered and rejected if either the Traditional Owners or Queensland Parks and Wildlife Service object – despite the fact that Council is the Road Authority and the local government for the area.

A typical example is the Portland Roads tenure dealings – see Appendix 2: letter of response setting out Council's position.

Both Main Roads and Cook Shire support the opening of a new road to give access to the township of Portland Roads, but Council understands that this outcome is not proposed in the land dealings.

Council is not part of the negotiation process and has no input into it, other than its original written submission.

As previously stated both Main Roads and Cook Shire support the opening of the new road to give access to the township of Portland Roads, but this outcome is apparently not proposed in the land dealings.

The balance of Council's roads policy is as follows:

#### **“Esplanades around Islands.**

That the Department of Environment and Resource Management, Cape York Tenure Resolution Task Force, be advised that in accordance with Council's policy position on the creation of esplanades, Council requires the provision of esplanades around the perimeter of all islands proposed to be regulated as Aboriginal land, prior to such regularisation.

#### **Public Access**

That Council's attitude/intent regarding river/creek/beach access etc is to request/require legal public access wherever possible. Council intends to request/require esplanades/access roads plus adjacent reserves (landing, recreation, etc) wherever possible. Any Council request/application should be processed with the foregoing in mind.

### ISSUE 3.

#### ABORIGINAL CULTURAL HERITAGE

When decisions on land dealings are reached, agreements signed, and Indigenous Land Use Agreements registered, the State, represented by Cape York Tenure Resolution Task Force, apparently sees fit to walk away from those legally binding contractual arrangements whenever it sees fit.

#### EXAMPLES

One example is Coen Bend Reserve: the Mt Croll/McIlwraith Range land dealings.

The Traditional Owners decided post the negotiation process and document signing and registration, that a story place existed at the falls at Coen Bend; and the land should not therefore be set aside as a reserve, but converted to Aboriginal freehold. To cater for that position, the State created the reserve as two parcels and gave the Traditional Owners an undertaking that it would look at revoking the reserve over the relevant area and converting that area to Aboriginal freehold tenure in the future.

Another example is Letter Box Creek Reserve: the Running Creek/Lilyvale land dealings.

The Traditional Owners advised post the negotiation process and document signing and registration, that skeletal remains subsequently identified as Aboriginal in origin, had been discovered at the site; and therefore the land should not be set aside as a reserve, but should be converted to Aboriginal freehold tenure.

Cape York Tenure Resolution Task Force is apparently seriously considering that proposal, despite the registered, legally binding, Indigenous Land Use Agreement.

#### LEGAL POSITION

The legal position is simply that Aboriginal cultural heritage is tenure neutral – it is protected by the *Aboriginal Cultural Heritage Act 2003* regardless of the tenure of the land. The land owner, in the case of a community purpose reserve created under the *Land Act 2009*, the Trustee, assumes all of the responsibilities and obligations under the *Aboriginal Cultural Heritage Act 2003*.

You would have to agree that the concept (and indeed impossibility) of changing the tenure of land every time an item of Aboriginal cultural heritage is discovered, is ludicrous – yet apparently to be followed by the Cape York Tenure Resolution Task Force!

**DESIRED OUTCOME**

That tenure changes no longer be proposed if Aboriginal cultural heritage is discovered on a particular parcel or at a particular location.



#### **ISSUE 4.**

#### **PORTLAND ROADS ESPLANADES**

Again, please see the attached letter of response setting out Council's position regarding the Portland Roads tenure dealings at **APPENDIX 2**.

#### **DESIRED OUTCOME**

Esplanades stay open and/or are established prior to any transfer to Aboriginal freehold or National Park tenure.

The creation of esplanades around the circumference of all islands.

Chili Beach esplanade agreement is honoured by the State.

Regarding any Aboriginal freehold or National Park already created by the State, the acquisition of the areas identified by Council by the State, and their subsequent dedication as road reserve, at no cost to Council.

## **ISSUE 5.**

### **MAHMIE PEAK**

After some years of negotiation with Queensland Parks and Wildlife Service, agreement was reached in relation to the boundaries of the proposed Mahmie Peak addition to the existing Mt Cook National Park – see letters dated 24.06.2004 and 30.11.2004; and Plan MAHMIE PEAK – v2.WOR at **APPENDIX 3**.

Despite that written agreement, Cape York Tenure Resolution Task force has apparently decided to walk away from that agreement and include areas not previously included, not to include those parcels into the existing National Park, but to offer those parcels as Aboriginal Land Act freehold to Traditional Owners in return for their agreement to the land proposed to be included in the existing National Park being so included – despite the previous agreement and planning considerations which resulted in that agreement.

This relevant land overlooks Cooktown Township and includes part of the Scenic Rim and the Scenic Rim Walking Trail, and is of immense importance, not the least from a planning perspective.

### **DESIRED OUTCOME**

The State honours the negotiated outcome.

## ISSUE 6.

### COEN ALTERNATE WATER SUPPLY

See the **APPENDIX 4** section 16 response in relation to the Mt Croll/McIlwraith Range land dealings.

Council specifically drew attention to the following:

“Next, the Coen water supply has always been a cause of concern for Council. The following usage figures are relevant:

- January 2004 – 3.7Mg/L per month.
- September 2004 – 7Mg/L per month.
- October 2004 – 6Mg/L per month.
- April 2005 – 3Mg/L per month.

As can be seen, current usage varies from a wet season low of 3Mg/L per month to a dry season high of 7Mg/L per month.

At a usage of 7Mg/L per month, the Coen Water Treatment Plant would be on line for 14/15 hours per day. Four (4) hours per day are required for back-washing, so on current peak figures, the plant only has a spare capacity of a maximum of five (5) hours per day.

On storage capacity, if the dam is full to capacity, it can provide water to Coen for a maximum of eight (8) months at an average usage of 3.7Mg/L per month.

If one wet season failed, Coen would be without water.

If there was a substantial increase in usage (whether by an increase in the number of residents or by the demands of an increasing tourism industry) either treatment or storage (or both) would fail, and Coen would be without water.

The Coen River, upstream from Coen Bend, is the only identified alternate source of water for the Town of Coen.

Plan Coen Damsite Investigation.wor submitted shows a dam wall and storage area in the vicinity of The Bend. This is not considered viable (no engineering investigation has taken place) simply because, at this location, the dam wall would be some 250m in length.

A dam above the falls and the associated storage area, is shown on Plan Coen Damsite Investigation2.wor submitted. The dam wall at this location would be some 70m in length – again, no engineering investigation has taken place.

Plan Coen Bend Catchment Investigation.wor submitted indicates the catchment area for both proposals.

Whilst engineering investigation has not taken place, Council considers that this matter must be seriously considered prior to including the required area into the proposed National Park, or some other prohibitive tenure.

If this matter is not addressed and resolved now, the worst happens, and the existing Coen water supply fails, Council will be looking to the State to resolve the matter and provide the solutions at its expense.

Whilst the spillway of the existing Coen Dam could possibly be raised by one (1) metre, this would only increase the storage capacity by some 27% (no engineering investigation has been undertaken as to feasibility). Accordingly, Council considers that the option of a dam above Coen Bend must remain available.”

Cape York Tenure Resolution Task force replied by letter dated 27 June 2006, set out in part below and included in full at **APPENDIX 4**.

I note that Council has expressed concern regarding future opportunities to extract water from Pandanus Creek north of Coen in the upstream areas that have been identified for national park under the proposed tenure resolution dealing for Mt Croll Holding.

As you are aware, provision has been made for an easement for future water supply purposes through the proposed Aboriginal land upstream of the “Coen Falls” to provide for the potential to extract water and construct a pipeline in that area. Proposals for a much larger and as yet undefined water supply reserve in the upstream area may have seriously impacted on the extent and integrity of the McIlwraith Range National Park proposal which as you would be aware is a long standing and high priority proposal.



Whilst it is still intended that the upstream area become national park, Section 35 of the *Nature Conservation Act 1992* (NCA) provides for permitted uses in a national park for service facilities. A service facility is defined (among other things) as "a water supply or sewerage facility, including, for example, a pipeline or pumping station". The NCA identifies certain criteria for which the chief executive would need to be satisfied should such a proposal be considered.

I trust this advice assists Council in this matter and provides a mechanism for consideration should this option need to be progressed in the future as the town's water supply requirements and opportunities become more defined.

Yours sincerely



Buzz Symonds

**A/Director, Cape York Unit**

The reply is, in Council's view, a nonsense, and totally unsupported by scientific evidence.

#### **DESIRED OUTCOME**

The provision of an alternate water supply for Coen.

Given that the State chose to ignore the information provided to it in relation to this issue, and preceded with tenure resolution outcomes, Council considers it is now up to the State to resolve the issue.

## ISSUE 7.

### COUNCIL REPRESENTATION AT THE NEGOTIATION TABLE

The Cape York Tenure Resolution Task Force negotiated an outcome in the Mt Croll tenure dealing which resulted in agreement by the Traditional Owners to the creation of a community purpose reserve at Coen Bend, to be vested in Council as Trustee.

Council was not a party to the negotiations.

When advised that the reserve creation was included in the registered Indigenous Land Use Agreement between the State and the Traditional Owners, Council requested details and was advised that information could not be disclosed as the Indigenous Land Use Agreement particulars were confidential to the parties.

We had a position where the Council was to be Trustee of a reserve, but the State could not advise Council what the Indigenous Land Use Agreement provided for in relation to the reserve.

After pressing the matter, the State advised Council that the Indigenous Land Use Agreement required certain works to be carried out on the reserve by the Trustee.

It was pointed out to the Cape York Tenure Resolution Task Force that as Council was not a signatory to the Indigenous Land Use Agreement it was not bound by that Agreement.

The Cape York Tenure Resolution Task Force then advised that the Indigenous Land Use Agreement did not require those works to be carried out, but provided native title agreement for those works to be carried out.

It was in turn pointed out that unless provision was made in a future budget for those works to be carried out, they would not be carried out.

The Traditional Owners then raised Indigenous cultural heritage issues with the reserve and demanded that it be transferred as Aboriginal freehold land rather than created as a reserve.

The Cape York Tenure Resolution Task Force then ceased action on the dealing, despite the fact that there was a registered Indigenous Land Use Agreement which required the creation of the reserve.

After the Cape York Tenure Resolution Task Force was advised that Council was considering whether it had a case against the State for breach of contract (failing to implement the Indigenous Land Use Agreement), the Cape York Tenure Resolution Task Force decided to resurvey the parcel such that the proposed reserve would consist of two parcels, with a view to determining a procedure which would allow the excision of the

parcel of concern to the Traditional Owners in the future – despite the registered Indigenous Land Use Agreement.

See Council's comments regarding Aboriginal Cultural Heritage in Issue 3 above.

The Aboriginal cultural heritage legislation is tenure neutral – it is protected on every tenure type – and is not a mechanism for changing tenure. What is suggested when an artifact is discovered on, for example, a road reserve: that the road be closed to traffic and the area converted to Aboriginal freehold?

The Cape York Tenure Resolution Task Force then decided it would require a Land Management Plan to be prepared for the area and approved, before it would create the reserve, despite the fact that there was no legislative requirement for such a Plan.

That is the present position.

Council as the local government for the area and the road authority for the area must be part of the tenure investigation and outcome negotiations.

Council's requirements for the maintenance and/or expansion of the road network must be accepted and not ignored at the will of the Traditional Owners and or Queensland Parks and Wildlife Service.

#### **DESIRED OUTCOME**

Council to be part of the investigation and negotiation process from the beginning.

Council's requirements for the maintenance and/or expansion of the road network take precedence over the aspirations of the Traditional Owners or Queensland Parks and Wildlife Service.



## **ISSUE 8.**

### **MUSGRAVE PORMPURA AW ROAD**

#### **BACKGROUND.**

As part of the negotiations in connection with the Strathgordon consent determination of native title on 26 July 2007 (QUD6005/03), the State (represented by the (then) Department of Environment and Resource Management and the Department of Main roads); and Council; gave an undertaking to expeditiously dedicate the balance of the road from Musgrave to Pormpuraaw – in exchange for native title agreement to the dedication of the section of that road through Strathgordon Pastoral Holding.

Action to comply with this undertaking has only recently commenced.

The State recently acquired title to Strathmay Pastoral Holding for tenure resolution under the process previously referred to above.

Council will be in the same position here, as it is with Batavia (Issue 1 above).

#### **DESIRED OUTCOME**

##### **OPTION 1**

##### **GOVERNMENT FUNDING**

The foregoing could be overcome if the State Government was to fund all Council expenses incurred in accessing gravel on Aboriginal freehold land – as set out in Issue 1, heading 3 above.

**OR**

##### **OPTION 2**

##### **DECLARATION AS MAIN ROADS**

Another solution open to the State Government would be to declare all roads (both dedicated and undedicated) within the Shire of the Council of Cook to be main roads under the relevant legislation – this would not solve the problem, but would transfer it from Cook shire Council to the Main Roads Department.

**OR**

##### **OPTION 3**

##### **COUNCILS PREFERRED OUTCOME FOR ALL FUTURE DEALINGS**



That a road reserve of sufficient width to include the quarry material, water, and access thereto, is opened prior to the transfer of any land into either Aboriginal freehold tenure or National Park.

Council's relevant policy position on roads is:

#### **Rural Road Corridor**

"That as a matter of policy, Council requires a road corridor 1 km wide wherever detailed design has not taken place and the State intends to undertake tenure resolution and include lands in either the Protected Area Estate or Aboriginal freehold tenure.

Moreover, Council will require a wider corridor as necessary for any future re-alignment or to encompass other resources such as water and gravel which cannot be located within a 1 km wide road corridor."

**OR**

#### **OPTION 4**

#### **ALTERNATIVE OUTCOME FOR ALL FUTURE DEALINGS**

That the State Government reserve all forest products and quarry material to the Crown pursuant to the provisions of section 55 (1) Reservations of forest products and quarry materials etc, of the *Aboriginal Land Act 1991*, in connection with any future transfers as Aboriginal freehold land.

**AND**

Amendments be made to relevant legislation to permit Council access to the quarry materials and water on Aboriginal freehold land on the same terms and conditions as the *Local Government Act 2009* currently provides for accessing quarry products on State leasehold land.

#### **5. NATIONAL PARKS**

Provision must be made for Council to access gravel within National Parks for construction and/or maintenance of the local road network or the result will be the same as outlined above – the cessation of maintenance and the rapid deterioration of the road surface to a state where Council has no option but to close the road to traffic.

ATTACHMENTS.

APPENDIX 1 – Map Overlay

APPENDIX 2 - Portland Roads tenure dealings letter dated 25.07.2003 (section 16 response)

APPENDIX 3 – Letters dated 24.06.2004 and 30.11.2004; and Plan MAHMIE PEAK – v2.WOR.

APPENDIX 4 – Section 16 response re Mt Croll proposals – letter dated 22.09.2005

## APPENDIX 1



## APPENDIX 2

CM 21-22-23 July 2003

Our ref. MJE: 2.500.3 and 5; 2.31.1 and 2; 2.85.17, 73, 94, 95 and 96; 2.86.4; 2.88.6; 2.510.5 and 6; 2.335.2; 2.660.49.

Your ref. TNS/30053

25 July 2003

Mr Denis Schy  
Senior Resource Planning Officer  
Department of Natural Resources and Mines  
PO Box 5318  
TOWNSVILLE QLD 4810

Dear Sir

**Re:** PORTLAND ROADS AREA PUBLIC CONSULTATION – LOTS 4 AND 5 ON PLAN WMT25; LOT 18 ON PLAN USL8030; LOT 6 ON PLAN WMT22; LOTS 44 AND 46 ON PLAN USL8030; LOTS 2 AND 3 ON PLAN USL36795; AND LOT 1 ON PLAN ABL22 PARISH OF WEYMOUTH.

I refer to your letter dated 17 June 2003 regarding the above.

Please note that Council considered the matter at its 21-22-23 July 2003 meeting and resolved to advise your Department as follows:

- 1. Lots 4 and 5 on Plan WMT25.** Plan 'C' attached indicates Councils desired outcome for these parcels. Provision is made for an extension to the national park of some 28.5 hectares [to accommodate the balance of the vegetation type protected by the existing park]; a Recreation Reserve of some 140 hectares in the trusteeship of the Council of the Shire of Cook [to provide an alternative recreation experience to that offered by the national park]; and a Strategic Land Management Reserve over Lot 5 {approximately 120 hectares} to provide for future town expansion, in the trusteeship of the Council of the Shire of Cook.

Should the national park extension not proceed for any reason, that area be included in the proposed Recreation Reserve in Councils trusteeship.

The balance of Lot 4 [zoned Rural under the Planning Scheme] could be used for any purpose permitted in the zone – subject to any planning constraints and the necessary approvals being obtained.



2. **Lot 18 on Plan USL8030.** Zoned Conservation under the Planning Scheme. Includes Aylen Hills and is quite steep. Spectacular views with some vehicular access to the western slopes from the Portland Roads Road.

This parcel should be reserved and set aside as a Reserve for Scenic Purposes under the trusteeship of the Council of the Shire of Cook.

3. **Lot 6 on Plan WMT22.** An elevated site that has legal but not practical access. Zoned Conservation under the Planning Scheme. This site should be amalgamated with Lot 18 on Plan USL8030 and set aside as a Reserve for Scenic Purposes under the control of the Council of the Shire of Cook as Trustee.
4. **Lots 44 and 46 on Plan USL8030.** Both parcels are zoned Rural Residential under the Planning Scheme. Suitable for residential development subject to any planning constraints and the necessary approvals being obtained.
5. **Lot 2 on Plan USL36795.** Sandy Island. Zoned Conservation under the Planning Scheme. Create a 20 metre wide esplanade around the perimeter of the island to guarantee access for boaties. Any use of the balance area must be consistent with the zoning. The request for an esplanade is consistent with Councils stated position on public access as set out in Resolution No. 19787 from the 20-21 July 1999 Council Meeting.
6. **Lot 3 on Plan USL36795.** Rocky Island. Zoned Conservation under the Planning Scheme. Create a 20 metre wide esplanade around the perimeter of the island to guarantee access for boaties. Any use of the balance area must be consistent with the zoning. The request for an esplanade is consistent with Councils stated position on public access as set out in Resolution No. 19787 from the 20-21 July 1999 Council Meeting.
7. **Lot 1 on Plan ABL22.** Pigeon Island. Zoned Conservation under the Planning Scheme. Create a 20 metre wide esplanade around the perimeter of the island to guarantee access for boaties. Any use of the balance area must be consistent with the zoning. The request for an esplanade is consistent with Councils stated position on public access as set out in Resolution No. 19787 from the 20-21 July 1999 Council Meeting.
8. **General.** - Whilst not located within the parcels under consideration, attention is drawn to Councils outstanding requests for access to gravel for road works (existing) and a landfill site (with legal access thereto) - existing; dedication of the missing link of the Cape Weymouth Road through Iron Range National Park; and dedication of the missing link of the esplanade at Portland Roads through the Ports Corp. land. In respect of the latter, the public amenities, boat launching area, picnic area and historic monument are within the area requested for

dedication as road. If the road opening is not to occur, the facilities/access need to be made available to the public in some other way.

9. **Cemetery.** Another issue that should be addressed as part of this appraisal is the identification of an area for a cemetery.
10. **Helicopter Landing Pad.** Another issue for consideration is provision for a helicopter landing area for Emergency Services.
11. **Port Facility.** Provision should be made for the possible re-establishment of the port facility at Portland Roads at some time in the future. The Ports Corp. land is zoned Special Facilities (Water Front Industry) Purposes under the Planning Scheme.
12. **Tourist Facilities.** There are very limited facilities at Portland Roads for tourists. Consideration should be given to setting aside an area as a possible future camping area.
13. **Reserves.** Council is the trustee of the following reserves within the Portland Roads township:
  - a. Lot 3 on Plan MPH40636 – Reserve for Local Government (Water Supply) Purposes.
  - b. Lot 5 on Plan CP889845 – Reserve for Park Purposes.
  - c. Lot 6 on Plan CP889845 – Reserve for Historic Purposes.
  - d. Lot 7 on Plan SP104566 – Reserve for Public Hall and Sport and Recreation Purposes.

The reserves are in use for their reserved purposes.

14. Currently outstanding is a request from Council for the reservation of Lot 7 on Plan CP894185 [Lot 46 on Plan USL8030] as a Reserve for Parks and Drainage Purposes, with the Council of the Shire of Cook as trustee. Council requests that this action continue. The site is not suitable for use for any other purpose.
15. **Water Supply.** On the matter of a water supply for the town, R56 Reserve for Local Government (Water Supply) Purposes, Lot 3 on Plan MPH40636, exists adjacent to the Ports Corp. land. Council is the trustee of this reserve.
16. Other water supplies are obtained from bores within Idewild [Lot 4 on Plan WMT25]. If this area goes to the Recreation Reserve proposed by Council,

no further action will be necessary at this time. If the requested reserve is not created, the water supplies must be protected.

17. Any other bores identified in the area must also be protected.

18. Another potential water supply is from the existing dam at what is known as Ringers Camp – within Lot 4 on Plan WMT25. This potential town water supply must be protected.

19. **Residential Subdivision.** Council has expressed disappointment in the past that the Department of Natural Resources and Mines residential subdivision over Lot 1 on Plan CP889845 [Lot 44 on Plan USL8030] has not proceeded. This proposal should proceed expeditiously.

Advice as to the outcome in due course will be appreciated.

For further enquiries regarding the above matter please contact Council's Land Tenure Officer, Michael Edmonds, on (07) 4069 5444.

Regards

Mark Pitt  
Chief Executive Officer



## APPENDIX 3



# COOK SHIRE COUNCIL

Council Meeting 21-22-23 June 2004  
Our ref. MJE: 2.85.105  
Your ref. Mt Cook NP  
24 June 2004

The Manager  
Queensland Parks & Wildlife Services  
PO Box 210  
ATHERTON QLD 4883

Attention: M Newport

Dear Sir

RE: MAHMIE PEAK PROPOSAL.

I refer to your letter dated 21 April 2004, regarding the above.

Please note that Council considered the matter at its 21-22-23 June 2004 meeting when it resolved, inter alia, to advise your Agency that Council raises no objection to gazettal as national park of the area depicted on Plan MAHMIE PEAK.WOR attached (which plan assumes that the area required for the water reservoir site will be excluded from the proposal), subject to the following conditions:

- a. The permanent road closures and amalgamation of all the lands within the proposed national park boundary shown on Plan MAHMIE PEAK.WOR attached to be carried out at no cost to Council.
- b. The State to be responsible for all costs, including agreed purchase price for the area required (approx. 8225m2), in respect of the required reconfiguration of Lot 8 on Plan C17955 Parish of Cook.
- c. Council to be responsible for all costs, including agreed purchase price for the area required (approx. 5575m2), in respect of the required reconfiguration of Lot 12 on Plan C17955 Parish of Cook.

Please advise if the foregoing is acceptable to your Agency.

A copy of this letter has been forwarded to the Department of Natural Resources Mines and Energy for information purposes.

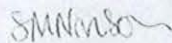
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121 Charlotte Street Cooktown  
PO Box 3 COOKTOWN QLD 4871  
Phone: 07 4069 5444  
Fax: 07 4069 5423  
Email: cooksc@tpg.com.au



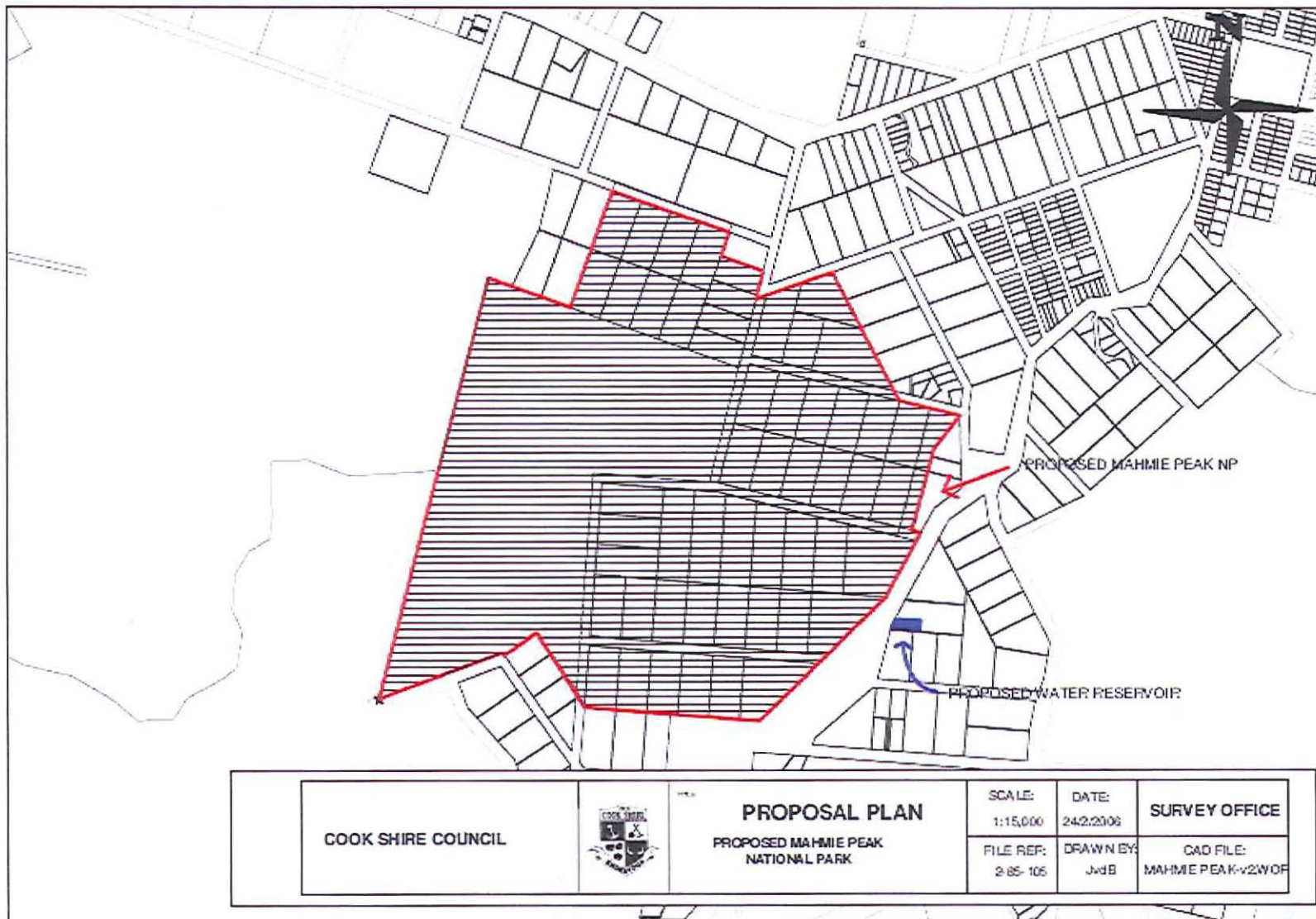
Should you have any further enquiries with regard to this matter, please contact Michael Edmonds, Council's Land Tenure Officer on (07) 4069 5588.

Regards



Mark Pitt  
Chief Executive Officer

Enclosed Document (1)





Queensland  
Government

Enquires M Newport  
Telephone (07) 4091 8118  
Your reference  
Our reference CNS810.3

Environmental Protection Agency

Incorporating the  
Queensland Parks and Wildlife Service

30 November 2004

The Chief Executive Officer  
Cook Shire Council  
PO Box 3  
COOKTOWN Q 4871

Dear Mark

*Rec'd 7/12*

Doc No:		Building
A Action Required	CEO	Finance
	Mgr Corp Ser	Rates
	Mgr Plan & Dev	Other:
I Info Only	Mgr Infrast Serv	A <i>LS</i>
	Planning	Council Meeting
C Council Meeting	EHO/Animal Con	

#### MAHMIE PEAK NATIONAL PARK PROPOSAL

Thankyou for your letter dated 24 June 2004 regarding the above and your support for the amended proposal. It is my belief that this proposal will have a positive community outcome for the people of Cooktown.

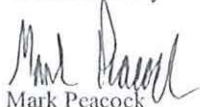
As you would be aware the Queensland Parks and Wildlife Service (QPWS) has provided a letter of support to Natural Resources and Mines to exclude the water reservoir site from the proposal.

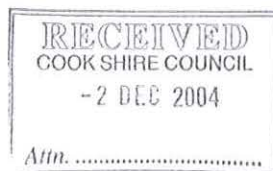
In response to your conditions I advise:

- The State will be responsible for costs associated with road closures and amalgamation of all lands within the proposed area.
- The State will be responsible for the reconfiguration of Lot 8 on Plan C17955.
- In your response you make mention to an agreed purchase price for approximately 8225m<sup>2</sup>. Would you please provide some indication of the price Council would be expecting.

If you would like to discuss this matter further, please feel free to contact Matt Newport on telephone (07) 4091 8118 at any time.

Yours faithfully

  
Mark Peacock  
District Manager  
Cape York/Dry Tropics



Page 1 of 1

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ABN 87 221 158 766





## COOK SHIRE COUNCIL

CM 19-20-21 September 2005  
Our Ref: MJE: CW 2.650.41; 2.650.61; 2.85.158  
Your Ref: Nil  
22 September 2005

Mr Paul Fisk  
Senior Resource Planning Officer  
Department of Natural Resources and Mines  
GPO Box 937  
CAIRNS QLD 4870

Dear Sir,

**RE: SECTION 16 LAND ACT 1994 EVALUATION – MT CROLL (LOVELL): LOT 4 ON PLAN SD800314 PARISH OF LANKELLY.**

I refer to your letter dated 5 August 2005, regarding the above.

Please note that Council considered the matter at its 19-20-21 September 2005 meeting when it resolved to advise:

1. Council considers the Mt Croll infrastructure (particularly the dam) within the Coen Town Reserve as shown on Plan Mt Croll PH-infrastructure.wor attached, could be an important recreational asset to Coen, and should either remain within the Coen Town Reserve or be excised from the Coen Town Reserve and included in a Recreation Reserve under the Trusteeship of the Council of the Shire of Cook, for the use of all residents of the area.
2. Council understands that the Traditional Owners have expressed a desire to obtain tenure to the area as Aboriginal freehold land. Council is strongly of the opinion set out in 1. above, but if a decision is made to give the Traditional Owners title to the area covered by the infrastructure, it must be the minimum area necessary, and be ordinary freehold, not Aboriginal Land Act freehold.
3. Council is looking for possible residential expansion areas for Coen and has identified three small areas as indicated on Plan Coen Possible Urban Expansion.wor attached. Area 1 extends off the Town Reserve to the north. The Town Reserve should be extended as indicated on that Plan Coen Possible Urban Expansion.wor attached, such that all of Area 1 is within the expanded Town Reserve.

---

121 Charlotte Street Cooktown  
PO Box 3 COOKTOWN QLD 4895  
Phone: 07 4069 5444  
Fax: 07 4069 5423  
Email: mail@cook.qld.gov.au



4. A further possible town expansion area has been identified as shown on Plan Coen Res Expansion Area.wor attached. This area should be included in the Coen Town Reserve.
5. Council previously (in 2004) requested the creation of a Recreation Reserve at Coen Bend, based on a desk-top study at the time – as indicated on Plan Coen Proposed Rec Reserve-original.wor attached. Following inspection Council now requests the creation of a Recreation Reserve at Coen Bend as indicated on Plan Coen Bend Proposed Rec Reserve.wor attached.
6. Regarding the two areas of proposed Aboriginal freehold land where Conservation Agreements are proposed, Council is strongly of the view that if an area is worthy of protection, it should be available to the general public either as part of the Protected Area Estate under the Nature Conservation Act 1992, or as a Community Purpose Reserve under the Land Act 1994. Council considers it nonsense to say an area is worthy of protection and then place it in private ownership (albeit protected by a Conservation Agreement) where access is not available as a right, to the general public. Accordingly, Council considers that both the areas shown on Plan Coen Prop Env Sc Rec Res.wor attached, should be reserved and set apart as Reserves for Environmental, Scenic and Recreation Purposes under the Land Act 1994, under the control of the Council of the Shire of Cook, as Trustee. Legal access must be provided to both areas, if such does not already exist. Alternatively, these areas must be included in the proposed National Park.
7. Next, the Coen water supply has always been a cause of concern for Council. The following usage figures are relevant:
  - January 2004 – 3.7Mg/L per month.
  - September 2004 – 7Mg/L per month.
  - October 2004 – 6Mg/L per month.
  - April 2005 – 3Mg/L per month.

As can be seen, current usage varies from a wet season low of 3Mg/L per month to a dry season high of 7Mg/L per month.

At a usage of 7Mg/L per month, the Coen Water Treatment Plant would be on line for 14/15 hours per day. Four (4) hours per day are required for back-washing, so on current peak figures, the plant only has a spare capacity of a maximum of five (5) hours per day.

On storage capacity, if the dam is full to capacity, it can provide water to Coen for a maximum of eight (8) months at an average usage of 3.7Mg/L per month.

If one wet season failed, Coen would be without water.

If there was a substantial increase in usage (whether by an increase in the number of residents or by the demands of an increasing tourism industry) either treatment or storage (or both) would fail, and Coen would be without water.

The Coen River, upstream from Coen Bend, is the only identified alternate source of water for the Town of Coen.

Plan Coen Damsite Investigation.wor attached shows a dam wall and storage area in the vicinity of The Bend. This is not considered viable (no engineering investigation has taken place) simply because, at this location, the dam wall would be some 250m in length.

A dam above the falls and the associated storage area, is shown on Plan Coen Damsite Investigation2.wor attached. The dam wall at this location would be some 70m in length – again, no engineering investigation has taken place.

Plan Coen Bend Catchment Investigation.wor attached indicates the catchment area for both proposals.

Whilst engineering investigation has not taken place, Council considers that this matter must be seriously considered prior to including the required area into the proposed National Park, or some other prohibitive tenure.

If this matter is not addressed and resolved now, the worst happens, and the existing Coen water supply fails, Council will be looking to the State to resolve the matter and provide the solutions at its expense.

Whilst the spillway of the existing Coen Dam could possibly be raised by one (1) metre, this would only increase the storage capacity by some 27% (no engineering investigation has been undertaken as to feasibility). Accordingly, Council considers that the option of a dam above Coen Bend must remain available.

8. A detailed check of the topographic maps (particularly the 1:50,000 series) indicates a number of 'gravel scrapes' within Mt. Croll, on both sides of the Peninsula Development Road. Access to these must be maintained for use for dump cover and general road works.
9. A further check of those maps reveals a number of 'dams' within Mt. Croll, again, on both sides of the Peninsula Development Road. Access to these water sources must be maintained, primarily for Cook Shire Council for general road works, but also for the Main Roads Department, which requires access to water to flush-out the 100mm agricultural lines (road drainage under the bitumen sealed PDR).

10. Further, access to gravel pits on or adjacent to the old Peninsula Development Road/Telegraph Line must be maintained/reinstated.
11. On the matter of Coen Airport, provision must be made to protect the ability to clear/trim the arrival/departure flight path (within Mt. Croll) without the addition of further approval processes or cost.
12. Regarding the existing road reserve and stock route to the south-east onto the Silver Plains Road, Council requires retention.

Should you have any further enquiries with regard to this matter, please contact Michael Edmonds, Council's Land Tenure Officer on (07) 4069 5588.

Please quote Council's file reference number in any correspondence and/or enquiry.

Regards

Mark Pitt  
Chief Executive Officer

Atts.  
Plan Mt Croll PH-infrastructure.wor  
Plan Coen Possible Urban Expansion.wor  
Plan Coen Res Expansion Area.wor  
Plan Coen Proposed Rec Reserve-original.wor  
Plan Coen Bend Proposed Rec Reserve.wor  
Plan Coen Prop Env Sc Rec Res.wor  
Plan Coen Damsite Investigation.wor  
Plan Coen Damsite Investigation2.wor  
Plan Coen Bend Catchment Investigation.wor